

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of)	MAIL STOP AF
)	
Anne-Marie Caminade et al.)	Group Art Unit: 4171
)	
Application No.: 10/580,459)	Examiner: Michael M. Dollinger
)	
Filed: May 24, 2006)	Confirmation No.: 5519
)	
For: NOVEL DENDRITIC POLYMERS)	
HAVING BIPHOSPHONIC)	
TERMINATIONS, DERIVATIVES)	
THEREOF, METHOD FOR)	
PREPARING THEM, AND THEIR USE)	

CONDITIONAL NOTICE OF APPEAL

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

A Final Official Action was issued in connection with the above-identified application on August 4, 2009.

Applicant's representative conducted a telephonic interview with Examiner Dollinger on January 29, 2010. It was noted that the response to the previous Office Action, which was Final, included an RCE. Applicant indicated that they believe that the instant Office Action was mistakenly identified as Final, when it should have been a Non-Final Action. The Examiner agreed with Applicant's position and indicated that he needed to check with Mr. Gulakowski, his supervisor, who would not be returning to the office until Tuesday, Feb. 2, 2010. Examiner Dollinger indicated that he would contact Applicant's representative after discussing the matter with Mr. Gulakowski and requested that the response not be submitted until after the contact.

On Tuesday, Feb. 2, 2010, Examiner Dollinger notified Applicant's representative that Mr. Gulakowski concurred that the Office Action should have been Non-Final. Examiner Dollinger indicated that the response should be filed as an Amendment After Final and that the finality of the current Office Action would be withdrawn in the next Office Action. Applicant's representative expressed concern that such a procedure may inadvertently be viewed as there having been an abandonment of the case. Applicant's representative indicated that a continuation application, without the payment of fees, may need to be filed in order to preserve Applicant's rights by not letting the instant application become abandoned. Examiner Gulakowski indicated that an Examiner Interview explaining the Office Action should have been Non-Final, rather than Final, would be issued and that it was not necessary to file a continuation application. Applicant appreciate the time and effort spent by both Examiner Dollinger and Examiner Gulakowski in correcting the record in this matter.

A response to that final Official Action was filed on February 4, 2010. That response included a Statement of Substance of Interview which provided the items raise above. Moreover, as of February 4, 2010, Public PAIR has indicated the application had received a Final Action and a Statement of Interview from the Examiner was not in the PAIR system.

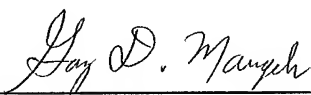
Thus, in further response to the final rejection mailed August 4, 2009, applicant conditionally appeals the decision of the Examiner contained in the final rejection, in the event that the status of the Office Action is not changed from Final to Non-Final. In such case, the Commissioner is hereby authorized to charge the

appropriate government fees for the Notice of Appeal set forth in 37 C.F.R. §§ 1.17
to our Deposit Account No. 02-4800.

Respectfully submitted,

Buchanan Ingersoll & Rooney pc

Date: February 4, 2010

By: 
Gary D. Mangels, Ph.D.
Registration No. 55424

P.O. Box 1404
Alexandria, VA 22313-1404
703 836 6620